IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15597 of 2004

Between:

Kuruba Akkamma, W/o Kuruba Lakshmanna
Mallapuram Village, H/o Palavai, Kalyandurg Mandal, Anantapur District

..... PETITIONER

AND

1 The District Collector, Anantapur District, Anantapur
2 The Mandal Revenue Officer, Kalayandurg mandal, Kalyandurg, Anantapur district
3 Sri Boya Peddanna S/o Pathanna Mallapuram Village, H/o Palavali, Kalyandurg Mandal, Anantapur district

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in resuming an extent of 0.70 centes out of total extent of acres 3.65 cents in Sy. No. 9-8 in East Kodipalli Village of Kalyandurg Mandal of Anantapur district and re-assigning the same to the 3rd respondent in proceedings DA 64/1413, dated 01-06-2004 as bad, illegal, arbitrary and contrary to sections 3 & 4 of the A.P. Assigned Land (Prohibition of Transfer) Act 1977, Act 9 of 1977 and violates Articles 14, 21 & 300-A of the Constitution of India and to set a side the same and consequently to restore the land to the petitioner as per the original assignment made in favour of the petitioner in DAR Dis. 7/99 dated 26-10-1989.

Counsel for the Petitioner: MR.V.VENUGOPALA RAO

Counsel for the Respondent Nos. 1&2: GP FOR REVENUE

Counsel for the Respondent No.3: None appeared

The Court at the stage of admission made the following ORDER:

The petitioner, who was originally assigned the land in an extent of Ac.3.65 cents in Survey No.9-8 situate at East Kodipalli village of Kalyandurg Mandal of Anantapur District, made an application to the first respondent for survey of the said land and fixation of the boundaries. While so, the second respondent re-assigned the land in an extent of

Ac.0.70 cents out of the land in question, in favour of Boya Peddanna, the third respondent, who is in possession of the same. Therefore, the petitioner is in possession of remaining extent of Ac.2.95 cents of land and cultivating the same. Questioning the said re-assignment, the petitioner filed the present writ petition.

Heard learned counsel on either side.

On a perusal of the record, in particular, proceedings dated 01.06.2004, issued by the second respondent, it is clear that the assignment is liable for cancellation, if it is found that it is grossly inequitable or was passed under a mistake of fact or owing to misrepresentation or fraud or in excess of the limits of the authority delegated to the assigning officer under BSO 15 read with G.O.Ms.No.1142 Revenue dated 18.06.1954 or that there was an irregularity in the procedure. If there is any breach of any of the conditions prescribed therein, the Government is at liberty to resume the land without compensation, and accordingly the second respondent re-assigned the said land to the third respondent. If the petitioner is aggrieved by the said resumption, he can file an appeal against the same. Without availing any alternative remedy, the petitioner cannot approach this Court directly.

In view of the facts and circumstances of the case, the writ petition is

disposed of with a liberty to the petitioner to avail the alternative remedy of appeal.

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A.Gopal Reddy, J

Date: 01.09.2004

va/ghn

To

1 The District Collector, Anantapur District, Anantapur
2 The Mandal Revenue Officer, Kalayandurg mandal, Kalyandurg, Anantapur district
3 Two CCs to G.P. for Revenue, High Court of A.P., Buildings, Hyderabad (OUT)

4 Two CD Copies